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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-eighth session

SUMMARY RECORD OF THE 5th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 8 August 1996, at 10 a.m.

Chairman: Mr. EIDE

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STATEMENT BY THE CHAIRMAN OF THE COMMISSION ON HUMAN RIGHTS

The meeting was called to order at 10.05 a.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 6) (continued) (E/CN.4/Sub.2/1996/9 and 32; E/CN.4/Sub.2/1996/NGO/3)

1. Mrs. CAPIBERIBE (France-Libertés: Fondation Danielle Mitterrand) drew the Sub-Commission's attention to two cases of human rights violations, one concerning Brazilian landless peasants and the other concerning ethnic minorities in Iraq. In the first case, she expressed the hope that the Sub-Commission would request the Brazilian Government to provide precise information on the inquiry into the El Dorado massacre, during which 19 landless peasants had been killed and 51 deliberately wounded by the military police while demonstrating against the acceleration of agrarian reform. That massacre was not an isolated case, but rather the product of the violence and impunity which shielded those responsible. The Sub-Commission should, therefore, also ask the Brazilian Government what concrete steps it intended to take to ensure that that crime did not go unpunished, that those responsible were clearly identified and brought to trial, and that the witnesses' safety was ensured and they were placed out of reach of any attempt by the guilty to harm them.

2. In the second case, France-Libertés considered it urgent to intercede with the Baghdad regime to put an end to the "ethnic cleansing" operations that affected, in particular, the Kurds and Turkmens of the Kirkuk province, to provide compensation to the Kurdish families which had already been robbed of their possessions, to the benefit of the Arab settlers, as a result of the implementation of a decree promulgated at the beginning of the summer, and to ensure that the Iraqis responsible were required to answer for the disappearance of 200,000 Kurds before an international tribunal.

3. Mr. ARIF (Afro-Asian People's Solidarity Organization) said that, as in the past, he wished to draw the Sub-Commission's attention to the human rights violations and brutalities committed by the Pakistan Government against the Mohajir nation, which, since it constituted 25 per cent of the population of Pakistan, was the principal minority in that country. That situation had further deteriorated since the Pakistan Government had done nothing to curb abuses committed by the security forces. The entire Mohajir nation was living in a permanent state of fear and insecurity. The principal targets of the security forces were the elected representatives and members of the Mohajir Quami Movement (MQM), the Mohajirs' sole representative party, who were being

subjected to illegal detention, extrajudicial execution and torture. More than 17,000 Mohajirs had been killed and half a million rendered destitute. Several international organizations had publicly reported those facts, and Amnesty International had sent a fact-finding mission to Pakistan; its conclusions, published on 23 May 1996, had confirmed the existence of the violations and the impunity of those responsible. Following the publication of the Amnesty International report, on 24 July 1993, 23 members of the British Parliament had tabled a motion on human rights violations in Pakistan, requesting, inter alia, the restoration of all the legitimate rights of the MQM. The Afro-Asian People's Solidarity Organization requested the Sub-Commission to appoint a special rapporteur to investigate and report on the genocide committed against the Mohajir nation.

4. Mrs. KING (International Association of Educators for World Peace) said it must not be thought that the political divisiveness and intolerance bred by apartheid had disappeared in South Africa. In the province of Natal, in particular, there was still the threat of political violence and civil unrest. The Zulu monarch and members of his family had been the targets of death threats and assassination attempts and, the previous May, the King's sister had been murdered and his second wife and her daughter had been brutally attacked. While the surviving women did not seek vengeance, they hoped that the violence done to them would illustrate the need for political tolerance.

5. In the interests of such tolerance, Mr. Dalindlela Tambo, son of the former President of the African National Congress, wished to thank the United Nations and the international community for their assistance in South Africa's transition to democracy and to address a message of solidarity and hope to those countries which were still struggling to attain the full realization of human rights. The International Association of Educators for World Peace also brought greetings from Mr. Govan Mbeki, who had been a friend of Nelson Mandela in prison and was currently Deputy President of the South African Senate. Democracy was taking root in different ways in a variety of fields of human experience, but South Africa still required assistance in tackling that task.

6. Mr. EIBNER (Christian Solidarity International) said he deeply regretted that a country such as the Sudan remained one of the areas of the world where the situation of human rights was the most catastrophic. The narrowly based Islamic National Front regime was using draconian measures to transform the multi-ethnic and multi-religious country into a totalitarian State and was waging a brutal "jihad" against the minorities that were resisting it. Its principal victims were the predominantly Christian and animist black African communities of the south, but also the minorities in the north, particularly the Beja tribe. The Bejas, who were Muslims but practised a more tolerant and

traditional form of Islam than that advocated by the Government, were the victims of a policy designed systematically to destroy the social fabric (confiscation of fertile land, closure of Koranic schools and other social institutions, excessive taxation, forced conscription and denial of humanitarian aid). Famine-like conditions were beginning to appear in many regions, and malnutrition and disease threatened to produce an imminent exodus of some 100,000 Bejas to Eritrea. Christian Solidarity International had submitted to the Sub-Commission the conclusions and recommendations found in the report that it had prepared after its recent visit to the region.

7. Mr. GRAVES (African Commission of Health and Human Rights Promoters) said that his organization remained concerned by the gravity of human rights violations in Iraq. The Iraqi Government had refused to cooperate with the United Nations to put an end to its own discriminatory and repressive policies. After a long period of refusal, it had finally accepted Security Council resolution 986 (1995), authorizing it to sell more oil in order to meet the basic health and nutrition needs of the population. However, it was essential for the humanitarian aid to be fairly and equitably distributed in all regions, without discrimination, particularly in the areas inhabited by the Kurds and the regions in the south inhabited by the Shiite population, which was suffering brutal persecution and discrimination. The funds that Iraq would receive under resolution 986 were more than sufficient to meet the current needs of the population, but an equitable distribution of those resources in all parts of the country without any distinction would require the withdrawal of all military forces from the south of the country, the granting of United Nations access to the currently encircled deprived populations, the return of the displaced persons on the border with Iran to their homes, and strict monitoring of the distribution system by the United Nations. In that regard, the African Commission of Health and Human Rights Promoters recommended that the United Nations itself should take charge of distributing food coupons to the population and that it should ensure a 200 per cent increase in the value of those coupons and an increase in the number of items included in the food baskets.

8. Mrs. KHAMKHOEVA (African Association on Development of Education) urgently requested the assistance of the Sub-Commission and the Mission of the Russian Federation to the United Nations to help bring an end to the violent conflict between the Ossetians and the Ingush in the Caucasus. She particularly requested the Chairman of the Sub-Commission and a group of experts to visit the region for that purpose. The Ingush had been deported by Stalin from the Caucasus, where they had been living for centuries, under the pretext that they had collaborated with the Nazis, and a third of the population had died. In 1991, the Ingush had voted to remain within the Russian Federation, and the Supreme Soviet had adopted a law on the

rehabilitation of repressed peoples, promising the return of deported peoples, including the Ingush, to their historic lands. However, fear had encouraged rivalries between peoples, and over 70,000 Ingush had been forced from their lands and their homes destroyed; many had been killed and wounded and numerous others had disappeared. It should be possible to set up a system to compensate the Ossetians who were restoring Ingush property to its owners and to help the innocent Ingush victims of the conflict. A solution to that conflict was in the interests of everyone, and of Russia as a whole.

9. Mr. MARWAH (International Institute for Non-Aligned Studies) said that State-sponsored human rights violations had increased in many parts of the world and that the situation could not be remedied unless its causes were dealt with. He criticized the ideology taught in the Pakistan schools, which inspired the group of armed mercenaries from Pakistan who had taken control of many parts of Afghanistan and had instituted a regime that left women no freedom at all. That same ideology of domination, taught in Pakistan training camps, also permeated the thinking of those groups, which sought to impose a similar system in the Indian State of Jammu and Kashmir.

10. Pakistan, a supposedly democratic country, was systematically victimizing political opponents, persecuting not only Christians, but also some Muslim sects, and carrying out a policy of discrimination against women. It was seeking to export its own system of intolerance to its neighbours in order to carve out for itself a sphere of influence that would lend substance to its own identity. Education was essential if the children of the present were not to become the oppressors of the future. States that permitted their educational systems to be subverted to impart hatred, bigotry, discrimination and subjugation must themselves be educated and made to understand that the international community would not stand by mutely. Concrete and time-bound action aimed at specific countries and their systems was necessary.

11. Ms. RUPPRECHT (International Institute of Peace) reported on the difficult conditions that had been faced by the inhabitants of Gilgit and Baltistan, in the northern areas of Pakistan, since the occupation of those regions by the Pakistan army in 1947. The human rights of the population were not respected and, as was shown by recent events in the town of Gilgit, the people in those provinces remained at the mercy of the rulers in Islamabad. The semblance of autonomy granted to Kashmir under the interim Constitution of 1974 had never been extended to the northern areas, which were subjected to a quasi-colonial regime and were not mentioned anywhere in the Pakistan Constitution.

12. Until October 1994, the people of the northern areas had had no right to vote and had, therefore, gone unrepresented in the national Parliament.

Political parties had been banned. In 1994, the Pakistan Government had allowed the political parties of Pakistan, with the exception of those in the part of Kashmir administered by Pakistan, to open branches in the northern areas even though those areas had historically been part of the State of Jammu and Kashmir. Elections to a National Executive Council had been held there, and the Council's members had been granted the same status as members of a provincial assembly. In reality, power remained in the hands of Pakistan's Federal Minister for Kashmir Affairs. There were few educational opportunities in those areas, no industries had been set up and residents wishing to leave the areas were required to request exit visas. Furthermore, all popular demonstrations, such as those protesting against the Government's use of fundamentalist Afghan mercenaries to augment the terrorist activity in Indian Kashmir and the northern areas, were immediately crushed.

13. Unfortunately, the international community, the media and human rights activists seemed uninterested in what might be the world's last remaining colony governed by a democratic country. She therefore called upon the Sub-Commission to support the legitimate claims of the inhabitants of Gilgit and Baltistan, who were seeking to exercise their right to self-determination.

14. Mr. RODRIGUEZ (Latin American Federation of Associations of Relatives of Disappeared Detainees - FEDEFAM) drew the Sub-Commission's attention to the situation of human rights in some Latin American countries.

15. In Mexico, the increase in the practice of enforced disappearances was particularly disturbing. Certain Government authorities in that country were pressing the families of the disappeared to withdraw their complaints in order to prevent any inquiry into those disappearances.

16. In Colombia, the situation of human rights remained critical; the practices of enforced disappearance and torture were continuing, and human rights violators enjoyed total impunity which was strengthened by the fact that it was the military courts that dealt with those matters. That situation had inspired a statement by the Chairman of the Commission on Human Rights at its previous session and the adoption of a resolution by the Sub-Commission in 1995. FEDEFAM asked that a resolution should be adopted during the current year, denouncing the persistence of human rights violations in Colombia and calling for the urgent establishment in that country of a permanent office of the High Commissioner for Human Rights in order to provide technical assistance to the Government and to monitor the situation of human rights.

17. In Honduras, too, those responsible for enforced disappearances were never prosecuted. FEDEFAM expressed its concern at the recent murder of

one of the principal witnesses in the disappearance and murder of Nelson McKay Chavarría and at the repeated threats received by the families of the disappeared.

18. FEDEFAM was also concerned by the persistence of human rights violations in Guatemala, particularly those committed against indigenous peoples. It requested the Sub-Commission to encourage the negotiation process that was already under way with a view to bringing peace to the country and to assist both the United Nations Mission for the Verification of Human Rights in Guatemala (MINUGUA), in its task of verifying respect for the agreements that had been signed, and the independent expert responsible for studying the situation of human rights in Guatemala.

19. FEDEFAM also wished to point out that the Peruvian amnesty law adopted in 1995 was in total violation of human rights and fundamental freedoms. Finally, in Bolivia, a parliamentary report on torture and cruel treatment, reporting numerous cases of torture, had not been followed by any investigation or sanctions. FEDEFAM urged the authorities of that country to guarantee the impartiality and independence of the judiciary.

20. Mr. NIMROD (Transnational Radical Party) drew the Sub-Commission's attention to the situation of human rights of the Assyrians who had remained in their ancestral homeland, particularly in Mesopotamia. The Assyrian Empire had been destroyed in 612 BC, but the Assyrian people had survived through the ages. During the First World War, the Assyrians had helped Great Britain to win a decisive battle against the Ottoman Empire, and the British authorities had promised them independence and a homeland. Instead, when the British mandate in Iraq had ended, the Assyrians had been released to the Iraqi Government, which had never respected the guarantees to which they were entitled as a minority under the Declaration of the Kingdom of Iraq of 1932.

21. While the Iraqi Government was not the only party responsible for the denial of human rights to the minorities in the north of that country, it was fully responsible for the violation of the religious, cultural, linguistic and other rights of the Assyrians, Kurds, Turkmens and other minorities residing in the rest of the country. The Commission on Human Rights' Special Rapporteur on the situation of human rights in Iraq had described those violations in detail in several reports (E/CN.4/1992/31, E/CN.4/1994/58 and E/CN.4/1995/91). The denial of those rights threatened to totally destroy the identity of the Assyrians.

22. The creation, after 1991, of a comfort zone in which the majority of the inhabitants were members of the Assyrian, Kurdish and Turkmen minorities had led to a fierce struggle for power, through control of humanitarian aid, among

the Kurdish groups "governing" the region. The Sub-Commission should urge the appropriate United Nations bodies to take the necessary steps to guarantee effectively the human rights of the Assyrians, Kurds, Turkmens and other minorities in the north of Iraq. Control and distribution of humanitarian assistance must not remain in the hands of those who no longer had the confidence of the people, but must be transferred to an interim civil administration supported militarily by the allies. That administration must reflect Middle Eastern customs and traditions and guarantee the rights of all the inhabitants of the region. That process must also be acceptable to the Iraqi authorities and to the neighbouring peoples and Governments in order to become a source of stability, security and economic well-being for all.

23. Ms. WARZAZI said that the hopes raised, particularly during the past three decades, by the progress made in the field of human rights had almost entirely evaporated. The seriousness of the situation therefore required that consideration of agenda item 6 must no longer be a routine exercise and that the international community as a whole must awake from its lethargy. Embargoes were being discussed and imposed in various places at the whim of interests, hatreds or electoral considerations, and the Commission was failing to react. In reality, such measures only penalized innocent people who were driven by all types of hardship to rebel against leaders who lived in luxury and tranquillity. Territorial embargoes and blockades were unquestionably a serious attack on the right of peoples to life and security.

24. In Africa, Somalia and Liberia people were being allowed slowly to die because there were no oil interests at stake in those countries, and nothing was being done to put an end to the massacres in Rwanda and Burundi, which spared neither of the two ethnic groups, even though it was clear that both of those countries had a Hutu majority but were dominated by an army of which the majority were Tutsi. Quite recently, the Security Council had even decided to suppress a report merely because it was damaging to the already dubious reputation of several individuals closely associated with the current Government and implicated in the assassination of the Presidents of Rwanda and Burundi.

25. The free and fair elections organized in certain countries were often failures, and those who had staunchly defended those elections on principle were currently limiting themselves to vague condemnations. Finally, in Bosnia, the Blue Helmets, who had received the Nobel Peace Prize several years previously, had no reason to be proud of the behaviour of those of their members who had handed the Bosnians over to their Serbian torturers in Srebrenica and hobnobbed with war criminals. The tragedy in Bosnia had left innumerable victims and had cost the United Nations its credibility. History would one day apportion responsibility in those crimes against humanity.

26. With regard to terrorism, a subject being hotly debated, the Centre for the Fight against Terrorism in Paris had recorded 813 terrorist acts, which had left tens of thousands of victims, since 1983. It should be emphasized that many of those criminal acts were the result of policies and that those responsible had formerly been welcomed by the countries which were currently brutally expelling émigrés in search of jobs.

27. With regard to the links between scientific and technical progress and human rights, it must be said that technology was not functioning in the service of human rights in the modern world. The Internet was no longer merely a powerful "information highway"; it had become a dangerous and uncontrollable instrument fostering corruption, the exploitation of women and children and racism. It was no surprise, then, that churches were being burned, foreigners attacked and neo-Nazi movements developing and, in some European cities, being strongly supported by the authorities. Yet the highest judicial body in the United States had decreed that, in the name of freedom of expression, no limits could be placed on the Internet.

28. During the current Decade to Combat Racism and Racial Discrimination, it had been astounding to discover that eminent American sociologists had recently developed racist theories, again under the guise of freedom of opinion. There was also talk of tolerance and friendship between peoples, even as political leaders and some of the media launched defamation and disinformation campaigns to discredit particular religions and traditions. Furthermore, the realization of equality between women and men was blocked by the refusal of politicians and the courts to implement active policies in favour of women, deliberately ignoring the provisions of the relevant international instruments. How was it possible to institute a culture of human rights when large numbers of people were illiterate, lived in extreme poverty and were completely ignorant of both their economic, social and cultural rights and their civil and political rights.

29. The Sub-Commission should, therefore, devote all necessary attention and objectivity to studying ways to ensure the effective implementation of all human rights for everyone, and by all States, without exception. The fact that one State had economic or military power superior to that of others must not exempt it from its international obligations; on the contrary, it should set an example for others. The Sub-Commission and non-governmental organizations (NGOs) should seek solutions to the problems in that area. The future of human rights and the credibility of the international community were at stake.

30. Ms. ATTAH said that, despite the progress made in numerous countries, many people in various parts of the world were still deprived of their rights.

That fact could be explained by the economic pressures on families, particularly in third world countries, by social and political tensions, intolerance, lack of understanding between peoples and what might be called a certain humanitarian fatigue. Millions of men, women and children were still refugees, and the States that had granted them temporary asylum and which were, themselves, poor, wanted them to leave. It was of the greatest urgency for the international community to address the problem of those refugees and, in particular, that of refugee children on whom depended the security of society in years to come, and to help them return to their homes.

31. It was gratifying that the Sub-Commission had taken the initiative during the current year to use a new mechanism in dealing with item 6 of its agenda. States should be encouraged to improve the enjoyment of human rights within their borders by examining the root causes of those violations and proposing solutions to them. Rather than being reprimanded and ostracized, a State should be helped to move in the right direction. For example, the Secretary-General had sent a mission to Nigeria to examine the accusations made against it, and the recommendations arrived at were currently being implemented. The Government had created, by decree, a National Commission for Human Rights that would give Nigerians whose rights had been infringed another means of obtaining redress.

32. The situation in Rwanda and Burundi continued to be a serious one and remained a great threat to peace in all of Africa. In that regard, she expressed the hope that the sanctions being imposed on Burundi would be of a military rather than an economic nature to avoid exacerbating the situation. In any case, the problem in those two countries was of a political nature and could not be resolved militarily, but only through dialogue and compromise. It was essential for the international community to cooperate with African States in finding a solution to that explosive situation.

33. She also hoped that the international community would soon decide to totally ban the production and sale of anti-personnel mines, which continued to claim victims daily throughout the world, particularly in Angola and Mozambique, and made large areas of arable land unusable. The international community should also demonstrate greater willingness to find a solution to the conflict in Cyprus, which had been going on for 21 years, and to the conflicts in Liberia and Papua New Guinea.

34. The rights of women and children were also being trampled in every part of the world. Many women were illiterate and therefore constituted the majority of the poorest of the poor, with no possibility of participating in the decision-making processes that affected them and with no access to land, property, housing or social services. The number of cases of rape and child

prostitution was increasing in many countries, and Governments should amend their laws to mandate heavier penalties for the guilty. States should also overhaul their prison systems in order to put an end to the human rights violations and indignities to which women and boys were subjected while incarcerated.

35. Finally, the importance of human rights education could not be over-emphasized, particularly in developing countries and rural regions, and greater efforts must be made in that field.

36. Mr. IBARRA expressed surprise that some European media were still asking whether there had been a genocide in Rwanda. The Convention on the Prevention and Punishment of the Crime of Genocide did not lose itself in statistical considerations when defining the crime of genocide but, if statistics were needed, investigators said that there had been approximately 1 million deaths in Rwanda and that Rwandan society would have difficulty in recovering from that tragedy. It was important to note that the Tutsi genocide in Rwanda was unusual because, for the first time in history, it was the victims of genocide who had won the war.

37. Genocide and war had destroyed the country's entire infrastructure and Government machinery. The economy was beginning to recover, little by little, thanks to multilateral, bilateral and non-governmental assistance. In some regions, agriculture, animal husbandry, small-scale industry and other productive activities were beginning to produce satisfactory results. However, the international community must remain vigilant, for the threat of famine continued to hang over the country. The reconstruction of the Government machinery, however, had been difficult and the worst delays were in the restructuring of the judicial system. The trials of over 62,000 people suspected to be guilty of genocide had not yet begun and it was, therefore, quite possible that innocent people were still being held in Rwandan prisons. In that regard, the presence and activities of the International Committee of the Red Cross and the representatives of the High Commissioner for Human Rights were essential to guarantee the rights of detainees.

38. The presence, along the borders with Burundi, Tanzania and Zaire, of refugee camps, where the notorious "Interhambwe" militia and a great majority of the armed forces of the preceding regime trained and which served as a base for commando expeditions aimed at silencing the "escapees" from genocide, was one of the greatest obstacles to the reconstruction of the country and the restoration of peace. The solution to that problem was a dual one: to encourage the voluntary return of refugees and to move refugee camps for those who did not wish to return home to sites located more than 50 km from the borders. The activities of the Office of the United Nations High Commissioner

for Refugees (UNHCR), the World Food Programme (WFP) and the International Organization for Migration (IOM) were fundamental to ensuring the resettlement of the refugees.

39. Genocide had left thousands of children orphans and, while the United Nations Children's Fund (UNICEF), some NGOs and the Rwandan Government were dealing with the situation, the task to be accomplished was immense. The child soldiers, most of whom were orphans, had been demobilized and the Government, together with some NGOs, was dealing with the problem of street children in the large urban centres, but no such activities were being carried out in the rural areas, and there was still a great deal to be done by the international community and the Rwandan Government. Major funding was also needed to meet the needs of children who were currently in detention under suspicion of being guilty of genocide and of children who had escaped the genocide.

40. The situation of women who had been wounded, tortured or raped during the genocide was also a source of concern. According to some estimates, women accounted for over 70 per cent of the country's total population since there were fewer women than men among the victims of the genocide, in the refugee camps outside the country and in the Rwandan prisons. Unfortunately, there were few rehabilitation and assistance programmes for those who had escaped the genocide, although he welcomed the emergence of women's organizations and small manufacturing or craft cooperatives which allowed women to earn a living.

41. He also emphasized the important role of Rwandan NGOs in the protection of human rights, despite their extremely limited resources, and the need to strongly support their activities in the field. Sub-Commission resolution 1995/5 of 1995 on the situation of human rights in Rwanda had been closely considered in the country and had given rise to the following criticisms: the Sub-Commission did not make any clear and urgent appeal to the International Tribunal, asking it to prosecute those presumed guilty of the genocide; it did not denounce the States which were protecting those presumed responsible for the genocide; it laid greater stress on the detainees presumed guilty of the genocide than on the victims of that genocide; it did not mention the situation of the Batwas; and it did not give equal treatment to economic, social and cultural rights and civil and political rights.

42. In conclusion, he was convinced that the establishment of a culture of respect for human rights in Rwanda would take time, but that it was not impossible, and that the Sub-Commission could play a very important role in

the prevention of genocide, for example, by engaging in discussions and work and preparing studies with a view to providing the Convention on Genocide with a control mechanism.

REVIEW OF THE WORK OF THE SUB-COMMISSION (agenda item 3)

43. Mr. ALI KHAN said that the Sub-Commission must take a serious look at the comments on its work made by the Commission on Human Rights. Of course, those criticisms were not new and the very nature of the Sub-Commission's work required it to highlight the problems that existed in certain countries, a fact which made Governments unhappy, and to suggest remedies which NGOs often found inadequate. Moreover, from its inception, the Sub-Commission had faced opposition from major Powers, which feared that it would bring to light the racial problems that existed in the colonies of Asia and Africa and the civil rights problems in their own countries.

44. The Sub-Commission had significant achievements to its credit, the most important of which had been its contribution to the struggle against apartheid and discrimination of all kinds. There was considerable scope for similar success in the future, but it could not ignore the criticisms made not only by Governments, but also by academicians and experts, concerning its lack of focus and of restraint.

45. In that regard, he suggested that the Sub-Commission should institutionalize introspection and proposed that, in the future, the first item on the agenda of each session of the Sub-Commission should be a review of discussions in the Commission on Human Rights, the General Assembly and the treaty bodies and of academic discussions on the role of the Sub-Commission and its potential contribution, and that that review should be summarized in a document to be prepared by the secretariat.

46. The key to introspection worthy of the name was a clear understanding of the Sub-Commission's nature and mandate. In his view, the Sub-Commission, which was composed of objective, independent experts who represented their regions, should be primarily a think-tank. Its duty was to be a beacon for States and intergovernmental forums such as the Commission on Human Rights, guiding them on the path to a better promotion of human rights. To that end, it should analyse contemporary issues, discern emerging trends and foresee future developments with the help of NGOs.

47. Reform of the work of the Sub-Commission must begin with agenda item 6. As a number of experts had already stated, it was essential to avoid duplicating the work of the Commission and, in particular, to refrain from adopting resolutions of a political nature. The Sub-Commission was not a

complaint chamber, sitting in judgement over Governments; it was a facilitator in search of constructive and practical solutions for the better promotion and protection of human rights, particularly through education. Resolutions, which were essentially a political act, should be left to the Commission and the General Assembly. The Sub-Commission should broaden its horizons and focus on current realities as the Vienna Declaration urged it to do. It must examine contemporary human rights problems in an integrated manner, without selectivity, and emphasize the realization of human rights in all parts of the world.

48. He was also in full agreement with those who felt that the Sub-Commission should exercise restraint with regard to new standard-setting initiatives and proposals for new mechanisms. There were many issues that the Sub-Commission could deal with, on the one hand, to meet the needs of the treaty bodies and, on the other, to respond to the emerging concerns with which the world was faced. For example, it should consider the phenomenon of terrorism and human rights violations committed by non-governmental entities and ways of promoting multiculturalism, tolerance and pluralism and, in particular, of analysing the causes of racism and possible solutions to that problem. In that regard, he asked Mr. Weissbrodt to explain what he had meant in suggesting that the Sub-Commission should focus on situations which had received insufficient attention or had not been previously looked into.

49. The CHAIRMAN invited the Chairman of the fifty-second session of the Commission on Human Rights, Mr. Vergne Saboia, to speak on the working relationship between the Commission and the Sub-Commission.

50. Mr. VERGNE SABOIA (Chairman of the Commission on Human Rights) said that, during the general debate in the Commission on the work of the Sub-Commission, many members and observers of the Commission had voiced criticisms with regard to various aspects of the Sub-Commission's activities and working methods and, while expressing their appreciation for its positive contribution to the promotion and protection of human rights, had proposed measures aimed at improving its efficiency.

51. Many delegations had paid tribute to the "think-tank" function of the Commission and to the fact that its discussions had often led to the drafting of new international instruments. It had also been emphasized that the Sub-Commission had often shown concern for particularly critical problems in the modern world and had recently conducted a number of serious studies on such important subjects as the right to housing, extreme poverty and indigenous rights. A number of delegations had also stressed that the

Sub-Commission provided an important forum for NGOs and that it was the principal forum in which the weak, the poor, the excluded and all those who were discriminated against could make their voices heard.

52. Yet, despite the Sub-Commission's achievements, several delegations had considered that it was in need of reform and should review its methods of work. It had been said that the Sub-Commission should accord priority to the formulation of recommendations based on in-depth studies of particular situations and general human rights problems instead of adopting politically motivated resolutions by secret ballot. Some delegations had also expressed the view that excessive recourse to the confidential procedure and to voting by secret ballot might detract from the credibility and moral authority of the Sub-Commission, which should conduct its work as transparently as possible. One NGO had stated that a vote by secret ballot did not strengthen the independence of experts since they either were, or were not, independent. Concern had been expressed regarding the politicization of the Sub-Commission's work, and it had also been said that the Sub-Commission had sometimes failed to respond to the Commission's requests and had not hesitated to interpret its mandate very broadly and even to alter it. Some members of the Commission had been even more critical in assessing the work of the Sub-Commission. According to one delegation, the Sub-Commission did not take sufficient account of current realities and of the principles set forth in the Vienna Declaration and Programme of Action. Another delegation had said that the Sub-Commission should remain committed to the principles of fairness and objectivity and should put an end to its unfounded accusations against Asian, African and Latin American countries.

53. Some had expressed the view that one of the most valuable aspects of the Sub-Commission's work was its ability to alert the Commission to new situations that required attention. In that regard, it had been proposed that the Sub-Commission should refrain, in general, from addressing country situations that were already on the agenda of the Commission or the General Assembly. Another proposal had been that, in view of the financial difficulties of the United Nations, the Sub-Commission's annual sessions should be reduced or made biennial.

54. At its fifty-second session, the Commission had approved most of the Sub-Commission's recommendations, except for the two proposals relating to the appointment of new special rapporteurs (decisions 1996/116 and 1996/106). Finally, he also drew the attention of the members of the Sub-Commission to Commission resolution 1996/25 on the work of the Sub-Commission and, in particular, to paragraphs 2, 9, 11 and 14, which concerned the independence of experts, the mandate and methods of work of the Sub-Commission, consideration of the report of the Sub-Commission on that issue at the fifty-third session

of the Commission and the invitation to the Chairman of the forty-eighth session of the Sub-Commission to report to the Commission at its fifty-third session on significant aspects of the work of the Sub-Commission.

55. Mr. JOINET said that most of the recommendations concerning the Sub-Commission made by the Commission on Human Rights in its resolution 1996/25 were well-founded, particularly with regard to the need to reduce the number of resolutions.

56. With regard to duplication between the resolutions of the Sub-Commission and those of the Commission, it should be noted that the United Nations General Assembly had adopted resolutions on 13 countries at its 1995 session and that the Commission on Human Rights had adopted resolutions on 11 of those same countries at its 1996 session. It should, therefore, be explained what was meant by "duplication". The Sub-Commission might well adopt a resolution on a country already mentioned in a resolution of the Commission but, because the Sub-Commission was composed of independent experts, it might express a different point of view regarding that country.

57. Moreover, if the Sub-Commission adopted resolutions that concerned only countries that had not been the subject of Commission resolutions, it might be accused of selectivity.

58. Mr. EL-HAJJE said that the number of resolutions, which was, in fact, very high, was simply a reflection of the problems at the international level in the field of human rights. However, he agreed that there was a need to strengthen coordination between the Commission and the Sub-Commission to avoid any overlapping between their respective activities.

59. Ms. GWANMESIA said she did not think the Sub-Commission in any way duplicated the work of the Commission. The Sub-Commission played an indispensable role in the United Nations system; for example, owing to the geographic origins of its members, it provided the Commission with first-hand information on the situation of human rights in all parts of the world, none of which should be neglected.

60. In order to help the Sub-Commission to fulfil its mandate more effectively, the Commission should not only criticize it but also help it to overcome the many difficulties which it faced, for example, its current inability, for lack of financial resources, to organize two sessions per year.

61. Mr. ALI KHAN said that it would be better to speak, not of duplication between the different United Nations bodies, but rather of an overlap in their

activities; that was inevitable, particularly with regard to the Commission, and the Sub-Commission, since those two bodies were both devoted to the promotion of human rights throughout the world.

62. In paragraph 9 of its resolution 1996/25, the Commission requested the Sub-Commission thoroughly to review in an effective manner its mandate. Did that mean that the Sub-Commission was empowered to change its own mandate?

63. Finally, in a spirit of reciprocity, it would be interesting to have precise information on what action the Commission took on the resolutions and recommendations submitted to it by the Sub-Commission.

64. Ms. WARZAZI said it was logical that certain of the Commission's Member States should criticize the Sub-Commission, since the latter strove to be impartial.

65. Furthermore, she did not quite see how an improvement in the Sub-Commission's methods of work would help the Commission to improve its own methods.

66. Finally, since the Commission felt that the Sub-Commission was adopting too many resolutions, perhaps it could clearly inform the Sub-Commission of the situations and countries that should not be the subject of resolutions.

67. The CHAIRMAN explained to Mr. Ali Khan that the Commission had adopted most of the resolutions submitted to it by the Sub-Commission.

68. Mr. CHERNICHENKO said he agreed with Mr. Ali Khan that overlap between the activities of the various United Nations human rights bodies was inevitable. The only solution to that problem would be to abolish the Commission and the Economic and Social Council and to set up, on the basis of the Sub-Commission and on the model of the International Law Commission, a commission of human rights experts reporting to the General Assembly. Of course, only the General Assembly would be competent to decide on such a change within the framework of the general reform of the United Nations.

69. Mr. ALFONSO MARTINEZ said it was his understanding that the Sub-Commission experts wished to continue to make use of the secret ballot procedure in matters related to agenda item 6. He therefore preferred to express his opinion on that question in closed session or at the time of subsequent votes.

70. Mr. JOINET expressed surprise that an NGO had, despite all evidence to the contrary, claimed that voting by secret ballot did not necessarily strengthen the independence of experts. Furthermore, he fully supported the opinions expressed by Ms. Warzazi.

71. Mr. ALFONSO MARTINEZ said that, in his opinion, experts did not need to vote by secret ballot to assert their independence. Personally, he would feel more independent if he could publicly state his reasons for voting in a given manner, particularly with regard to questions related to agenda items 6-9.

72. The CHAIRMAN invited the Chairman of the Commission on Human Rights to respond to the questions of the members of the Sub-Commission.

73. Mr. VERGNE SABOIA (Chairman of the Commission on Human Rights) thanked the experts of the Sub-Commission for their remarks and explained that his statement should be considered as a summary of the various points of view, some of which were shared by only a small minority, which had been expressed during the previous session of the Commission on Human Rights. Only resolution 1996/25 expressed the point of view of the Commission as a whole.

74. It must be recognized that overlapping was inevitable, since the Commission and Sub-Commission worked in the same field. However, the Sub-Commission, which was made up of independent experts, should attempt to deal with human rights-related questions from a different standpoint than that of bodies such as the Commission and the General Assembly, which were intergovernmental and whose discussions were, therefore, highly politicized.

75. The Commission also recognized the Sub-Commission's efforts to reform its methods of work and, in fact, could well follow its example by improving its own efficiency.

76. The CHAIRMAN thanked the Chairman of the Commission on Human Rights for his constructive discussion with the Sub-Commission. On an exceptional basis, he then invited the observer for Morocco to exercise his right of reply under agenda item 6.

77. Mr. BENJELLOUN TOUIMI (Observer for Morocco) said that the Moroccan delegation had taken careful note of some NGOs' requests for clarification on the fate of a number of individuals from the Sahara. His delegation intended to make every effort to continue to shed light on those important matters within the framework of His Majesty the King's forward-looking policy for promoting human rights. However, his delegation wished to encourage interested organizations to be more practical and precise regarding the facts and people in question.

78. Furthermore, it must be remembered that Morocco was not a colonial State and that to speak of an "occupying Power" was an insult to history. None of the regional and international bodies that had been seized with that question had ever mentioned any other colonial and administering Power than Spain, and they had always drawn the obvious legal and political conclusions from that fact. In that regard, he referred to United Nations General Assembly resolution 3458 B (XXX), which took note of the transfer of authority between Spain and Morocco.

79. Finally, it was not inappropriate to remind those who felt that the United Nations should intervene in the Sahara and, in fact, exercise a "certain trusteeship", that the United Nations Mission for the Referendum in Western Sahara (MINURSO) was a peace-keeping operation with a very specific mandate which, as its name indicated, was essentially related to the organization of the referendum, not to any administration of that territory.

The meeting rose at 1.10 p.m.